an ingredient of the offense and the allegation was not necessary. *United States* v. *Balint,* 42 Sup. Ct. 301 (March 27, 1922).

There is plenty of authority in accord with the principal case. Ignorance of fact and, therefore, absence of evil intent are no defense if the statute negatives that common law essential. *Com.* v. *Mixer,* 207 Mass. 141; *People* v. *Christian,* 144 Mich. 247; *Rex* v. *Wheat,* [1921] 2 K. B. 119, 20 MICH. L. REV. 108. The mere fact, however, that a statute does not contain the word "knowingly" or otherwise expressly require knowledge of fact, does not definitely indicate that knowledge is not an element in the crime. Such a requirement may be judicially implied. *Faulks* v. *People,* 39 Mich. 200; *Reg.* v. *Tolson,* 23 Q. B. Div. 168. Consideration of extrinsic circumstances is suggested in the latter case as a basis for interpretation of the statute. As to the constitutionality of statutes which negative knowledge as a necessary element in criminal liability, see, DUE PROCESS AND PUNISHMENT, 20 MICH. L. REV. 614.

DEEDS—MENTAL CAPACITY MAY EXIST THOUGH GRANTOR HAS NOT CAPACITY TO DO BUSINESS GENERALLY.—Grantor, a widow 93 years of age, made a deed of land to her two granddaughters, following a family consultation at which grantees were present. Plaintiff, grantor's guardian, sued in equity to set deed aside, alleging that grantor was mentally incompetent to execute a deed. *Held,* mental capacity may exist though grantor has not capacity to do business generally. *Sutherland State Bank* v. *Furgason* (Iowa, 1922), 186 N. W. 200.

The degree of mental capacity required to uphold a deed varies with the circumstances surrounding the conveyance, the requirement being that the grantor understand the transaction in hand in all its consequences. *Akers* v. *Mead,* 188 Mich. 277; *Chamberlain* v. *Frank,* 103 Neb. 442; *Swan* v. *Steven's Estate,* 206 Mich. 694. A distinction is to be noted between deeds in the nature of gifts or testamentary conveyances, and those resulting from an ordinary contract of sale. *Hamlett* v. *McMillin* (Mo., 1921), 223 S. W. 1069. The doctrine of the instant case is probably limited to the former, as capacity to do business generally is an ordinary test in cases of the latter type. *Porterfield* v. *Kuss,* (Mo., 1920), 226 S. W. 21; *Bordner* v. *Kelso,* 293 Ill. 175.

EVIDENCE—SHOULD JUDGE OR JURY DETERMINE WHETHER CONFESSION WAS VOLUNTARY?—Defendant was charged with murder, and on trial his confession was offered in evidence by the prosecution, and admitted by the court for determination of the jury as to whether it was voluntary. Defendant contended it was obtained by "third degree" methods, but the only evidential element raising any issue as to whether it was made freely and voluntarily was defendant's denial of any knowledge of it, or of having made or signed it. There was abundant evidence supporting the contention of the prosecution that it was made voluntarily by defendant. *Held,* assuming there was created a tangible doubt as to the voluntary character of the confession, it was proper for the court to admit it and leave the question to the jury. *People* v. *Utter* (Mich., 1921), 185 N. W. 830.

The principal case follows the general rule laid down by previous cases in Michigan, which is in accord with one line of authorities holding that when the evidence is conflicting as to whether a confession was voluntarily obtained, the question should be left to the jury under instructions to disregard the confession if upon all the evidence they believe it was involuntary. *People* v. *Biossat,* 206 Mich. 334; *People* v. *Lipsczinska,* 212 Mich. 484; *Commonwealth* v. *Piper,* 120 Mass. 185; *Williams* v. *State* (Texas, 1920), 225 S. W. 177; *Bonner* v. *State* (Ga., 1921), 109 S. E. 291. Directly opposed to that line of cases is the older and possibly more generally accepted doctrine that whether a confession was freely and voluntarily made is a matter of admissibility of evidence to be determined by the court, which doctrine is more in accord with the elementary principles defining the functions of judge and jury. WIGMORE ON EVIDENCE, § 861. See *Machen* v. *State* (Ala., 1920), 85 So. 857; *Hauk* v. *State,* 148 Ind. 238; *Ellis* v. *State,* 65 Miss. 44; *Biscoe* v. *State,* 67 Md. 6; *Stiner* v. *State,* 78 Fla. 647; *People* v. *Columbus* (Cal., 1920), 194 Pac. 288. Variations of the two rules are not infrequent as in *Commonwealth* v. *Sherman,* 234 Mass. 7, where it was held that the judge should first apply the rules of law to the confession in question, and after admitted by him, the jury should apply them again with power to reject the confession if not voluntary. To the same effect see *Wilson* v. *U. S.,* 162 U. S. 613. In *State* v. *Storms,* 113 Ia. 385, it was held that when the court is in doubt as to the voluntary character of the confession, it should be left to the jury. In *Burton* v. *State,* 107 Ala. 108, the court held that the jury should consider whether the confession was voluntary in passing on its weight, but once it was admitted by the court, the jury could not wholly neglect it, it not being their duty to determine the question of admissibility. In such a case the jury will consider the same facts as the court did, but with the purpose of determining credit rather than admissibility. In *State* v. *McDaniels* (N. M., 1921), 196 Pac. 177, the court held that the admission or rejection of a confession in the first instance is for the court, but if after its admission a conflict of evidence arises as to its voluntary character, the question of whether voluntary or not is for the jury. If the facts surrounding the confession are uncontroverted, the court should rule on its admissibility as a question of law, and under either of the two established rules the decision in the trial court is generally final, subject to reversal only if there is a clear error in the result.

JURISDICTION—TRESPASS TO REAL PROPERTY—LOCAL ACTION.—The plaintiff brought an action of trespass in Idaho for injuries caused to his land in Washington by acts of the defendant which occurred in the latter state. *Held,* (Rice, J. dissenting) an action of trespass is a local action and can be brought only in the state where the land lies. *Taylor* v. *Sommers Bros. Match Co.,* (Idaho, 1922) 204 Pac. 472.

The common law distinguished clearly between so-called transitory and local actions,—requiring the latter to be brought in the venue where the cause of action arose. As to the origin and development of the rule, see